



October 22, 1999

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR99-3003

Dear Dempsey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129379.

The City of Garland (the "city") received a request for records regarding the agenda set for a discussion of the Utility Advisory Board. You state that a portion of the requested information is public, and we assume that you have made those records available to the requestor. You claim that the remainder of the requested information is excepted from disclosure under section 552.105 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.105 excepts from disclosure information relating to:

- (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
- (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

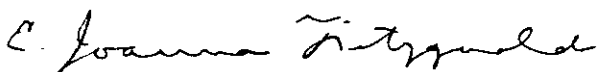
Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions. Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information excepted under section 552.105 that pertains to such negotiations may be excepted so long as the transaction is not complete. Open Records Decision No. 310 (1982). Because this exception extends to "information pertaining to" the location, appraisals, and purchase price of property, it may protect more than a specific appraisal report prepared for a specific piece of property. Open Records Decision No. 564 at 2 (1990). For example, this office has concluded that appraisal information about parcels of land acquired in advance of others to be acquired for the same project could be withheld where this information would harm the governmental body's negotiating position with respect to the remaining parcels. *Id.* A governmental body may withhold information "which, if released, would impair or tend to impair [its] 'planning and negotiating position in regard to particular transactions.'" Open Records Decision

No. 357 at 3 (1982) (quoting Open Records Decision No. 222 (1979)). When a governmental body has made a good faith determination that the release of information would damage its negotiating position with respect to the acquisition of property, the attorney general will accept that determination unless the records or other information show the contrary as a matter of law. Open Records Decision No. 564 (1990).

You argue that the requested information concerning the city's potential real property transactions may be withheld. You explain that the city has submitted an "indicative bid" as part of a preliminary procedure by which the city may acquire real property to be used for a public purpose. Moreover, you state that disclosure of the submitted information "would damage the city's negotiating position in its attempt to acquire the property." After examining your arguments and the information you have submitted, we find that section 552.105 is applicable in this instance. You may withhold the submitted information under section 552.105.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF\nc

Ref: ID# 129379

Encl: Submitted documents

cc: Mr. Les Cook
3631-C Cavalier
Garland, Texas 75042
(w/o enclosures)

¹Note that section 552.105 will no longer apply to the submitted information once the transaction becomes complete. See Open Records Decision No. 310 (1982).